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Applicant: Chen et al.
Appl. No.: 09/875,076
Filing Date: June 6, 2001
Title: HUMAN ORPHAN G PROTEIN-COUPLED RECEPTORS
Attorney Docket No.: 11 US7REG (AREN-0239)
Pub. No.: US 2003/0001752 A1
Pub. Date: January 23, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on March 21, 2003.

The request is DISMISSED.

The instant request is that the application be republished because Figs. 2A, 2B, 3, 4 and 5 are not readable in the published application and are believed to be material to understanding results of the dot-blot and RT-PCT analyses reported in the patent application.

A patent application publication is based on the application papers as originally filed, according to 37 CFR 1.215(a), which says the following, in part:

(a) . . . The patent application publication will be based upon the application papers deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application . . . The patent application publication will not include any amendments, including preliminary amendments, unless applicant supplies a copy of the application containing the amendment pursuant to paragraph (c) of this section.

§ 1.215(c) says the following:

(c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended during examination, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the actual filing date of the application or fourteen months of the earliest filing date for which is sought under title 35, United States Code, whichever is later.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹ The instant request does not identify a material mistake in the publication made by the Office:

The errors in Figs. 2A, 2B, 3, 4 and 5 in the request will not be corrected as the Office correctly published the application including the drawings in accordance with § 1.215(a), see the figures on

¹ Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

pages 3/4 and 4/4 respectively, which depict the Figures as shown in the published application.

If applicant desires to have better drawings included in a patent application publication than the drawings which were submitted with the application on filing, applicant may supply a copy of the application in compliance with § 1.215(c) or applicant may submit replacement drawings on paper within the later of one month from the filing date of the application or fourteen months from the earliest filing date for which a benefit is sought under title 35, United States Code.² The replacement paper drawings must be filed in an envelope addressed to Mail Stop PGPUB DRAWINGS, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450,³ with a petition under 37 CFR 1.182 requesting entry of the drawings, and the petition fee set forth in 37 CFR 1.17(h), in the time period set forth above. Replacement drawings that are received later than this date may be included in the patent application publication, where practicable, if the USPTO has not started the patent application publication process.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

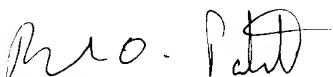
Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 1600 to await further examination in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).


Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

²Drawings in Patent Application Publications and Patents, 1242 Off Gaz. Pat. Office Notices 114 (Jan. 16, 2001).

³Correspondence with the United States Patent and Trademark Office, 68 Fed. Reg. 14332 (March 25, 2003).